

Attorney Docket No. AGIL-01600

**Remarks/Arguments**

The amendments set forth herein are provided solely to clarify the invention as filed and set forth in the pending claims in order to comply with applicable statutes and regulations. The amendments are not intended to limit the invention or preclude the application of equivalents which Applicant may be entitled to under law.

**Status of the Application**

Applicant respectfully requests reconsideration of the rejections and objections set forth in the Office Action mailed on 6/14/2007.

Claims 1, 6, 9, 19, 21-23, 25 and 26 were rejected under 35 USC 112, first paragraph, as not complying with the enablement requirement. Claims 23, 25 and 26 were rejected under 35 USC 112 second paragraph as being indefinite. Claims 1, 6, 9, 19, 21-23, 25 and 26 were rejected under 35 USC 101 as being directed to non-statutory subject matter.

**Claim rejections – 35 USC §112, first paragraph**

Response to section 7: Examiner's rejection of independent claims 1, 19, and 23 under 35 USC 112, first paragraph on the basis that the specification does not set forth how the performance metrics are to be determined is respectfully traversed in part and overcome in part. Applicant traverses on the basis that, in fact, the specification contains a very detailed teaching of how the performance metrics are to be determined.

As the specification teaches in paragraphs [0006], [0007], [0034] and elsewhere, the system is a computerized way to rate customer satisfaction with a vendor or supplier of goods or services. To demonstrate that the specification does, in fact contain teaching as to how the performance metrics are to be determined, consider an example where a user wishes to construct an automated pizza restaurant (supplier) rating system.

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Here, the specification teaching is cited to show how construct an automated system that can let one or more users determine which of the various local pizza restaurants are the most suitable suppliers for pizza, based upon past experience with these respective restaurants. The system is designed to allow it to be updated with the latest pizza ordering experience, in order to give the most accurate results possible.

To begin with, consider the situation where the user wishes to enter a newly opened pizza restaurant into the system. How should the performance metrics for this new pizza restaurant be initially established? Here, specification paragraph [0028] teaches that the initial value for each performance metric can be an average value such as 3 "e.g. 3 out of 5". This makes sense, since without any specific knowledge about the quality of a particular pizza restaurant; the most meaningful guess that can be made is that it is about average. So, following paragraph [0028], the user instructs the system to rate the new pizza restaurant "3" on every performance metric. The specification also shows this in specification table I "*part 1: Supplier rating matrix before feedback*".

Here, since the user is rating pizzas, the performance parameter most equivalent to "dimensional tolerance" is the restaurant's ability to actually deliver the correct type of pizza (correct pizza size and toppings) that the user ordered, and since the average pizza restaurant is expected to deliver pizza in less than an hour, the "turnaround time" will be a different time scale, but otherwise the concept is similar to that illustrated in Table 1.

The user now decides to evaluate the new pizza restaurant by ordering pizza, but (in this example) unfortunately the user has a bad experience. The restaurant sends the wrong size and type of pizza (the user requested a large pepperoni pizza and got small anchovy pizza), the delivery time was 4 hours late, the pizza restaurant charged twice as much as normal, and the service was poor because the delivery person was rude. How should the performance metrics for this particular pizza restaurant be changed? Specification paragraph [0034] teaches that the user needs to quantify (rate) the performance of the supplier (the pizza restaurant) for this particular job, and enter this into the system.

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Paragraphs [0035] to [0047] show the math behind this process, and this is also explained in detail in paragraphs [0052]-[0064], and Table 1 part 2 "*applying customer feedback*" and Table 1 part 3 "*rating a supplier for a proposed job*".

Specifically the specification teaches the next steps in paragraph [0053] "the supplier has just completed a job for the customer" (here the job was delivering the pizza). Following specification paragraph [0053], the user rates the supplier in terms of speed, quality, cost and service on a scale of 0-5, where 0 is unacceptable, 1 is poor, 2 is below average, 3 is average, 4 is good, and 5 is perfect. Since the pizza restaurant was very slow, sent the wrong pizza, charged way too much, and the delivery person was rude, following the teaching of specification paragraph [0053], the user would give them an "actual performance vector" of {0,0,0,0}: 0 for speed, 0 for quality, 0 for cost, and 0 for service.

Following the teaching of specification paragraph [0056], the user would then mathematically update the supplier rating matrix, which in this example would be a matrix composed of the results from a list of various local pizza restaurants, and how well the restaurants performed on various aspects of pizza delivery, as shown by the math in paragraphs [0057]-[0067].

One important policy question is: how much does the user want to alter a restaurant's overall rating based on just one good or bad delivery experience? Should the restaurant's overall rating be based on just their last job, i.e. "the restaurant is only as good as its last pizza delivery", or should the restaurant's overall history be taken into account as well, and the restaurant's rating then be slowly increased or decreased as the user accumulates additional experience over the course of many pizza delivery jobs?

Specification paragraph [0060] shows that this policy decision can be entered into the system's math in the form of the filter constant "h", where h=1 makes the math give 100% of the rating based only on the user rating of the most recent job experience. As the "h" value decreases, the system weights past user job ratings more and more, and h=0 makes the math ignore all recent job experience. The specification goes so far as to

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suggests that an appropriate value to use for  $h$  is:  $h=0.2$ . This is roughly equivalent to basing 80% of the restaurant's (or supplier's) overall rating on past experience, but changing this by about 20% based on the suppliers performance (user rating) for the latest job. The specification (table 4) shows how negative performance can result in poorer ratings.

So if  $h=1$ , the pizza restaurant's present supplier rating would be "0" on all parameters ("the restaurant is only as good as its last job, and the last job was rated as terrible"), if  $h=0$ , the restaurant's present supplier rating would still be "3" on all parameters ( $h=0$  is equivalent to ignoring all recent experience). The intermediate  $h$  values, such as the  $h=0.2$  value recommended by the specification, will in this example lower the pizza restaurant's parameters to less than 3 based on this one bad job. The exact number can be calculated according to the equations in specification paragraphs [0059]-[0068].

This system has many industrial and commercial uses, and the pizza example here has simply been used as a simple illustration. As far as additional uses go, specification paragraphs [0007], [0016], [0018], [0025], and figure 1b teach that the system can be used here an automated computerized network system to allow users to keep a "*web page on the internet, through a client/server system, over an Intranet, on an internet appliance and/or on a personal computer. The system may be used as part of a marketplace with numerous buyers and suppliers or for a single enterprise...*" (specification paragraph [0007]). Thus in this example, the specification is teaching the user how to produce a web based automated pizza restaurant recommendation and rating system, that can continually "learn" about pizza restaurant performance as restaurants change with time.

Thus applicant respectfully traverses the rejection on the basis that specification clearly teaches that performance metrics start at "3" (average), and the specification also clearly teaches lowering the performance metrics to a smaller number if vendor performance clearly does not match vendor norms, and clearly teaches increasing performance metrics to a larger number if vendor performance clearly exceeds vendor norms, and gives detailed mathematical guidance as to how these numbers are to be adjusted.

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Additionally, as will be discussed in more detail in response to the 35 USC 101 rejections, applicant respectfully overcomes this 35 USC 112 first paragraph rejection by amending independent claims 1, 19, and 23 to more specifically teach certain specification limitations that better enable the performance metric art taught by independent claims 1, 19, and 23.

Applicant respectfully traverses the rejection of dependent claims 6, 9, 21, 22, 25 and 26 on the basis that these claims are dependent claims to claims 1, 19, and 23, and thus inherit the same limitations of these claims, including the new limitations and detailed specification teaching as to how the performance metrics are to be established.

#### **Claim rejections -- 35 USC §112, second paragraph**

Response to section 9: The rejection of claims 23, 25, and 26 under 35 USC 112, second paragraph has been respectfully overcome. Independent claim 23 has been amended per examiner's suggestion to recite that the interface modules perform the cited functions.

Claims 25 and 26 depend upon claim 23, and this claim 23 amendment thus corrects the issues with claims 25 and 26 as well.

#### **Claim rejections -- 35 USC §101**

Response to section 10: Examiner's rejection of independent claims 1, 19, and 23 under 35 USC 101 on the basis that the claims are not concrete is respectfully traversed in part and overcome in part. Applicant's traversal to reiterate the same traversal discussed at length earlier in this response for the 35 USC 112 first paragraph rejection of claims 1, 19, and 23. That is, applicant again traverses on the basis that the specification does, in fact teach concrete examples of how performance metrics are defined.

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To overcome, applicant has amended independent claims 1, 19, and 23 to more clearly express the specification's concrete teaching in the form of additional claim limitations.

One new limitation shows how the initial rating matrix is generated. It states that the initial supplier rating matrix is populated by either average supplier ratings or by ratings determined by prior knowledge of said past history of said supplier performance;

This limitation finds support in specification paragraphs [0027]-[0028], table 1 part 1, table 2, and specification paragraph [0053] and [0081].

A second new limitation shows how the performance vector and performance metrics work: each performance metric is based upon the supplier's performance metric relative to the average performance metric for other suppliers that perform said job. This is supported by specification paragraph [0053].

Support for the wherein said first filter constant has a value between 0 and 1; limitation can be found in specification paragraph [0060].

A few minor grammatical corrections have also been made.

**New claims:**

New claim 27 is essentially present methods claim 1, further limited by the computerized methods teaching contained in specification paragraphs [0007], [0018] and figure 1b.

New claim 28 finds support in specification paragraph [0007].

New claims 29 and 30 find support in specification paragraph [0025] and figure 1b.

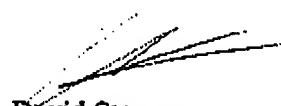
New claim 31 finds support in specification paragraph [0016].

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Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application; the undersigned can be reached at the telephone number set out below.

The Commissioner is authorized to charge any additional or credit any over-payments that may apply to Deposit Account No. 50-2421.

Respectfully submitted,



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